

ORIGINAL *JA*

FILED
U.S. DISTRICT COURT
NORTHERN DIST. OF TX
FT. WORTH DIVISION

2016 AUG 31 AM 9:43
JA
CLERK OF COURT

IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH, TEXAS

IN CIVIL ACTION NUMBER:

4:16-CV-675-O

CARY A. ZOLMAN,
PLAINTIFF

v.

FEDERAL NATIONAL MORTGAGE
ASSOCIATION (FANNIE MAE),
SETERUS, INC.,
DEFENDANTS

PLAINTIFF'S RESPONSE TO
DEFENDANT'S MOTION TO DISMISS
PURSUANT TO FEDERAL RULE OF CIVIL
PROCEDURE, RULE 12 (B)(6)

Dismissal is not warranted at this time due to a deficiency of notice in violation of the Fourteenth Amendment to the United States Constitution.

The defendants, Federal National Mortgage Association (Fannie Mae) and Seterus, Inc., allegedly filed a Motion To Dismiss Pursuant to Federal Rule of Civil Procedure, Rule 12 (b)(6), on July 20, 2016.

Plaintiff Cary A. Zolman was required to file a response within twenty one (21) days, or by August 10, 2016.

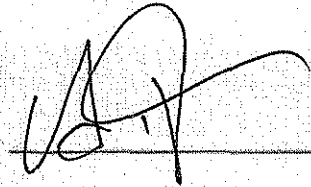
Plaintiff Zolman did not receive notice nor a copy of the Defendant's Motion until August 19, 2016. A copy of the return receipt (United States Postal Service, green card is attached) showing the date Defendant's Motion was received by the Plaintiff.

Dismissal is not proper for three major reasons, first due to insufficient process. The second reason is insufficient service of process, and third, the Defendants has failed to state a claim upon which relief can be granted.

Plaintiff Zolman still retains the right to file a timely responsive pleading when the actual notice date of August 19, 2016 is the controlling date for computation purpose in satisfying Federal Rule of Civil Procedure, Rule 12 (b)(6).

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that
Defendants' Motion To Dismiss Pursuant to Federal Rule of Civil
Procedure, Rule 12 (b)(6) be DENIED for the reasons stated above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Cary A. Zolman', is written over a horizontal line.

Cary A. Zolman,

Plaintiff

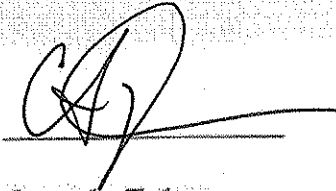
CERTIFICATE OF SERVICE

I, Cary A. Zolman, hereby certify that a true and correct copy of the
foregoing instrument was served to the Defendants on this 31st day of
August, 2016 at the below listed address via United States Postal Service,
regular mail, return receipt requested with postage prepaid.

MACKIE WOLF ZIENTZ & MANN, P.C.

14160 N.Dallas Pkwy, Suite 900

Dallas, Texas 75254

A handwritten signature in black ink, appearing to read 'Cary A. Zolman', is written over a horizontal line.

Cary A. Zolman

Plaintiff

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Updated Delivery Date: Friday, August 19, 2016

Product & Tracking Information

Product/Service

Features:
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August 19, 2016, 10:04 am	Delivered, Left with Addressee	HUNST, TX 76054
August 18, 2016, 7:59 am	Out for Delivery	HUNST, TX 76054
August 18, 2016, 7:49 am	Sorting Complete	HUNST, TX 76054
August 18, 2016, 7:45 am	Arrived at ISB	HUNST, TX 76054
August 18, 2016, 7:00 pm	Departed USPS Facility	FORT WORTH, TX 76161
August 18, 2016, 6:18 am	Arrived at USPS Facility	FORT WORTH, TX 76161
August 17, 2016, 3:58 pm	Departed USPS Facility	NORTH TEXAS PROCESSING AND DISTRIBUTION CENTER
August 17, 2016, 8:02 am	Arrived at USPS Facility	NORTH TEXAS PROCESSING AND DISTRIBUTION CENTER

Available Actions

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Email Updates

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Tracking (or receipt) number:

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